

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CLIFTON DAVID SIMS,

Plaintiff,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States; and
UNITED STATES OF AMERICA,

Defendants.

Case No. 1:19-cv-345 (CKK)

DEFENDANT’S RESPONSE TO JULY 31, 2019 ORDER

By Order dated July 31, 2019, the Court “proposes that this case, as well as Defendant’s Motion to Dismiss, be stayed pending a D.C. Circuit decision in *Lovitky* [*v. Trump*, No. 19-1454, 2019 WL 3068344 (D.D.C. July 12, 2019), *appeal docketed*, No. 19-5199 (D.C. Cir. July 16, 2019)] or *Blumenthal* [*v. Trump*, 382 F. Supp. 3d 77 (D.D.C. 2019), *remanded by In re Trump*, No. 19-5196, 2019 WL 3285234 (D.C. Cir. July 19, 2019)],” as the Court believes that in deciding one or both of the cited cases, “the D.C. Circuit may soon provide some clarity on th[e] issue” of “whether or not declaratory or injunctive relief can be granted against the President.” Order 1 (July 31, 2019), ECF No. 15. Under the Court’s proposal, “the Court would order the case stayed for 60 days or until the D.C. Circuit has issued a decision, whichever comes first[, and i]f necessary, the stay could be extended at the end of the 60 days.” *Id.* at 2.

Defendants have no objection to the Court’s proposed stay of this case, including resolution of Defendant’s Motion to Dismiss, ECF No. 8, pending a D.C. Circuit decision in *Lovitky* or *Blumenthal*. Staying this case pending appellate resolution of either *Lovitky* or *Blumenthal* would not prejudice Defendants, nor has Plaintiff asserted that it would prejudice him. *See* Pl.’s Resp. to

Court's Order Dated July 31, 2019, ECF No. 16. Defendants further submit, however, that rather than stay this proceeding for sixty days, it might best conserve judicial resources to stay this proceeding pending a D.C. Circuit decision in either *Lovitky* or *Blumenthal*, whenever such a decision comes. Neither case likely will be decided—or even fully briefed and argued—within sixty days. And the losing party in either case might seek additional appellate review of the D.C. Circuit's decision, thereby further delaying any potential forthcoming guidance from the appellate court on that question. Thus, judicial efficiency might best be served by dispensing with the contemplated initial 60-day stay in favor of an indefinite stay pending a final resolution of *Lovitky* or *Blumenthal*.

Dated: August 9, 2019

Respectfully submitted,

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